

DECISION RECORD

EA Number: OR-056-01-038

Title of Action: 4-R Equipment Commercial Road Right-of-Way (ROW)

Serial Number: OR-55654

BLM Office: Prineville District

Decision:

It is my decision to authorize the 4-R Equipment Commercial Road Right-of-Way as described in the proposed action of EA Number OR-056-01-038, dated May 5, 2001.

Proposed Action

The location of the Proposed Action:

Willamette Meridian, Oregon,
T. 14 S., R. 14 E.,
Sec 30, NE1/4NE1/4SW1/4,SE1/4;
containing 3.53 acres.

4-R Equipment is requesting a right-of-way to construct a commercial haul road across public lands beginning at the O'Neil Highway to the private land located in T.14S., R.14E. Section 29, W½, Willamette Meridian (see attached map-Exhibit A). A linear portion 30 feet wide and approximately 4,224 feet long, will be located on an existing cinder road right-of-way, serial number OR 47616. A linear portion 30 feet wide and approximately 350 feet long, will be on an existing dirt road and a linear portion 30 feet wide and approximately 200 feet long, will be new construction that will continue northwest to connect with a Crook County Public Way (see attached map). A short linear portion 30 feet wide and approximately 350 feet long will be on the existing Crook County Public Way to the O'Neil Highway. The entire proposed right-of-way is 30 feet wide and approximately 5,124 feet long, containing 3.53 acres, more or less.

The applicant will obtain any necessary written authorization from Crook County to construct an approach onto the O'Neil Highway. 4-R Equipment has been in the road building industry for over 50 years and plans to do the construction with their own equipment and labor force. The proposed road will be 24 feet wide plus three foot shoulders with a 10 inch aggregate base, then four layers of oil will be applied over the compacted surface. Their plan also includes a 2% slope from the center of the

road to the shoulders for drainage (see attachment-Exhibit B). Since the running surface is an oil mat, maintenance will be minimal and redone as needed. The company plans to construct a turnout on the Crook County Public Way where it enters onto the O'Neil Highway to insure the safety of vehicles entering or exiting the highway at that location.

The residents of O'Neil and Lone Pine communities currently deal with truck traffic from Hap Taylor & Sons, Lone Pine Pit and O'Neil Sand and Gravel. The 4-R Equipment's pit is for private use only. There will be no individual sales to the public from this pit. 4-R Equipment estimates hauling approximately 25,000 cubic yards of material per year. This equates to approximately 1,560 truck trips per year or an average of 6 trips per day in and out of the pit. Stockpiles of mineral materials will be stored on private property. The proposed access road will be used the entire year and construction will begin when the applicant receives the required approval and permits. Construction will take approximately three weeks to complete depending on the weather condition. No temporary work areas will be needed for construction.

Existing road right-of-way OR 47616 enters onto the O'Neil Highway approximately 425 feet east of the proposed ROW. This access is not an option due to the fact that ODOT is concerned about limited sight distance for traffic coming out of the canyon. The applicant will block this access where it enters the O'Neil Highway using large boulders and a berm and the land allowed to return to a natural state. A linear portion of the road, approximately 350 feet long, will be closed.

Historically this area has been used by the public for illegal dumping. The applicant will block several two track trails to discourage illegal public dumping. The applicant will remove trash that has accumulated from illegal dumping activities in the area.

To complete the proposed improvements, approximately 115 juniper trees, ranging in diameter from 3 inches to 12 inches, will need to be removed. An additional 25 juniper trees will need to be trimmed prior to road construction (see attached Tree Removal Requirements). A locked gate will be installed by the applicant, on their private property, on the section line common to sections 29 and 30.

The proposed ROW will be within the Cook grazing allotment #5111, and will cross the allotment boundary at the north end. The ROW applicant will install a 14 foot or wider cattleguard at this location prior to the next authorized grazing period. The cattleguard will be constructed and installed as shown on attached drawings (See Exhibit C) and specifications as provided by the authorized officer. The applicant will repair and maintain the cattleguard as needed, and upon request by authorized officer.

Rationale for Decision:

The Brothers/LaPine Resource Management Plan (RMP), dated July 1989, on page 33, stipulates that each right-of-way granted will consider the protection of public safety, will do no unnecessary damage

to the environment, and shall be limited to the area necessary for operation and maintenance. The proposed action complies with our current land use plan.

The proposed action will eliminate the unsafe access to the O'Neil Highway located 50 feet west of the O'Neil grade. This will also eliminate the need for 4-R Equipment to use the access at the Lone Pine Junction, both of which ODOT has determined to be a public safety hazard because of limited site distance and the heavy truck traffic in the area.

Comments were received from three individuals living in the area of the proposed access road. All supported the project and considered the current access to be extremely dangerous because of poor visibility and heavy traffic situations. One stated the proposed ROW will "greatly enhance the safety of this increasingly congested area." One specific concern is that traffic heading west out of the canyon does not become visible in time to ensure proper stopping distance to avoid hitting slow moving trucks.

One alternative considered was the existing access (ROW OR-47616) which enters onto the O'Neil Highway approximately 50 feet west of the crest of O'Neil grade. ODOT will not permit the use or development of this access due to insufficient sight and stopping distance. The proposed access is approximately 475 feet west of the crest of O'Neil grade which increases sight and stopping distance by 425 feet.

A comment was also received from Crook County Road Department (CCRD) in support of the proposed action. They concur that the proposed access is preferred over the current access and will promote traffic safety on the O'Neil Highway. However, CCRD will require 4-R Equipment to construct the road as specified by Crook County Road Ordinance #19 for a typical Standard "B" Oil Mat Road. Since a portion of the proposed access includes a Crook County Public Way and the proposed action must comply with applicable Federal, State, local laws, and ordinances, CCRD's requirement will be carried forward into the terms and conditions of the grant.

Mitigation Measures and Residual Impacts

Soil and Vegetation:

1. During construction the access road to the project will be limited to the minimum width necessary to complete the project. The closure of two wheel-track roads and periodic road maintenance will limit dust and erosion.
2. Spreading woody debris on-site from the tree removal will retain organic matter and nutrients, help stabilize disturbed soil and limit erosion, and help reduce the spread of non-native vegetation.

Tree Removal Specifications:

1. Applicant shall mark all trees to be removed with flagging within the clearing limits of new segment construction or existing road widening. To maintain as much vegetative screening as possible, to the maximum extent feasible, tree removal for the portion of the ROW that is parallel to O'Neil Highway (i.e., the ROW located between OR-52686 and OR-47616) shall only be done on the south side of the existing road clearing.
2. Cut trees down to a stump height of 8 inches or less for any trees that will not be grubbed out.
3. All cut trees 6 inches or greater in diameter shall be limbed and bucked into pieces not to exceed 8 feet in length. Bucked and limbed boles shall be placed in accessible locations within the ROW to be later removed by BLM personnel or BLM contractor for firewood.
4. Trees less than 6 inches in diameter and cut limbs and tops shall be either chipped or lopped and scattered on BLM public land within or adjacent to the ROW such that no hazardous fuel concentrations remain and resulting slash depth does not exceed 8 inches.
5. If chipping is used for slash disposal, chips shall be blown away from the road prism perpendicular to the road within or immediately adjacent to the ROW.
6. Any slash or chips falling on the road bed or ditches shall be cleared out.

Air Quality:

4-R Equipment has obtained the necessary Air Contaminant Discharge Permit from The Department of Environmental Quality (DEQ). Permit No: 37-0027 was issued by DEQ on September 13, 2000 and will expire on August 1, 2005. This permit was issued in accordance with the provisions of ORS 468A.040. This permit stipulates that 4-R Equipment is required to control dust emissions by:

1. Applying water as needed to unpaved roads used to transport materials;
2. Controlling truck speeds on unpaved roadways;
3. Using reasonable measures to reduce the migration of material onto public and private roadways;
4. Removing all "tracked-out" materials from paved streets;
5. Covering open bodied trucks transporting materials likely to become airborne.

In addition to the specific requirements listed in the permit, the permittee must comply with all other legal requirements enforceable by the Department of Environmental Quality. DEQ personnel will conduct inspections to ensure compliance with permit conditions.

Alternatives Considered

Existing road ROW OR 47616 enters onto the O'Neil Highway approximately 425 feet east of the proposed ROW. This ROW was granted to Martin Tisthammer and Bernard Paine on October 30, 1991 for single family residential use. This approach is not adequate for commercial use because it enters the highway approximately 50 feet west of the crest of O'Neil grade on the O'Neil Highway. Traffic heading west out of the canyon does not become visible in time to insure proper stopping distance to avoid hitting slow moving trucks entering or exiting the highway at that location. Since ODOT will not permit the use of this access, this route was considered but not developed as an alternative.

No-Action

A no-action alternative will result in 4-R Equipment continuing to use the existing road which enters onto the O'Neil Highway at the Lone Pine Junction.

Compliance and Monitoring:

The right-of-way grant will contain terms and conditions requiring compliance with environmental quality standards applicable to Federal or State law. Such terms and conditions are intended to provide efficient management of the lands subject to the right-of-way and to protect the interest of individuals living in the area as well as the public interest in the Federal lands.

Right-of-way grants will be monitored to ensure that development is consistent with the terms and conditions of the grant. A prework conference will be conducted with the 4-R Equipment, Crook County Road Department and an authorized officer from BLM to discuss the stipulations of the grant and plans for construction. Monitoring will be performed during and after construction by BLM personnel.

Terms / Conditions / Stipulations:

- a. This grant is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 90 days, or otherwise disposed of as provided in paragraph (4) (d) or as directed by the authorized officer.

- c. The holder shall contact the authorized officer at least 30 days prior to the anticipated start of construction and/or any surface disturbing activities. The authorized officer may require and schedule a preconstruction conference with the holder prior to the holder's commencing construction and/or surface disturbing activities on the right-of-way.
- d. The holder shall construct the road as specified by Crook County Road Ordinance #19 for a typical Standard "B" Oil Mat Road (Exhibit B) and will contact Crook County Road Department before start of construction and/or any surface disturbing activities.
- e. The right-of-way granted herein may be reviewed at any time deemed necessary by the authorized officer.
- f. The map set forth in Exhibit A, and designs set forth in Exhibit B and C, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- g. Failure of the holder to comply with applicable law or any provision of this right-of-way grant shall constitute grounds for suspension or termination thereof.
- h. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.
- i. Any human remains, cultural and/or paleontological resource (historic or prehistoric or vertebrate fossil site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported by telephone to the authorized officer. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder. In some cases it may be necessary to suspend authorized operations in the area of the discovery for as much as 30 days.
- j. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).
- k. Right-of-way clearing shall be limited to the limits of the right-of-way.

- l. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of (2) inches deep, the soil shall be deemed too wet to adequately support construction equipment.
- m. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
- n. Cattleguards shall be constructed and installed as shown on attached drawings (Exhibit C, page 1 & 2) and specifications as provided by the authorized officer.
- o. The holder shall provide for the safety of the public entering the right-of-way during construction. This includes, but is not limited to, barricades for open trenches and flagmen/women with communication systems for single-lane roads without intervisible turnouts.
- p. In the event the holder sells the property the holder is responsible for completing an assignment to transfer this authorization to the new landowner.
- q. During conditions of extreme fire danger, operations shall be limited or suspended in specific areas, or additional measures may be required by the authorized officer. The Industrial Fire Precaution Levels (IFPL) system shall apply at all times unless a waiver, written in advance, has been issued by the authorized officer.

/s/ Robert Towne
Robert B. Towne
Deschutes Field Manager

7/20/01
Date

Attachments:

Exhibit A: Map
Exhibit B: Road Standards
Exhibit C: Page 1 & 2.
Response to Comments
Form 1842-1